

REMARKS

Claims 1 - 39 are pending in this broadening reissue application. As discussed below, all of the claims are in condition for allowance.

Rejection Of Claims 1-39 Under 35 U.S.C. § 251

The Examiner has rejected claims 1-39 because he believes that the reissue oath/declaration filed with the application is defective for the following reason:

The parent Patent [sic] application was not a 35.U.S.C. j [sic] 371 application, but was rather a bypass application. Instead of a certified copy of the foreign application/priority document (PD) being submitted as required under 35 CFR 1.55(a)(2), applicant submitted, on filing, a copy of the cover page of the PD. Therefore, a photocopy of the certified foreign priority document does not satisfy the requirement.

This rejection makes no sense, because the parent patent 5,767,709, for which reissue is being sought, was filed neither as a 35 U.S.C. 371 application nor as a bypass application. Instead, the patent application that issued as the 5,767,709 patent was first filed in the U.S. as a U.S. application (not a PCT application), and does not claim priority to any other foreign or domestic application.

The Applicant's attorney left voice mail asking the Examiner to clarify this rejection, but the Examiner did not return the phone call.

Therefore, the Applicant's attorney requests that the Examiner withdraw this rejection.

Conclusion

In light of the foregoing, claims 1 – 39 as previously pending are in condition for full allowance, and that action is respectfully requested.

If the Examiner believes that a phone interview would be helpful, he is respectfully requested to contact the Applicant's attorney, Bryan Santarelli, at (425) 455-5575.

DATED this 14th day of November, 2006.

Respectfully submitted,

GRAYBEAL JACKSON HALEY LLP



Bryan A. Santarelli
Attorney for Applicants
Registration No. 37,560
155-108th Avenue N.E., Ste 350
Bellevue, WA 98004-5973
(425) 455-5575